

Rabbitt now resides in the vicinity of the Wilberg mine. Usually on a daily basis he goes underground and consults with the safety committees. He has accompanied federal inspectors on 103(i), 103(g), 103(a) inspections. <sup>4/</sup> Rabbitt was not restricted at the Emery mine until three or four months ago (Tr. 75, 118). He normally would enter the mine at 8 o'clock, contact the safety director and then go underground (Tr. 75). His underground work included investigations and search for the Wilberg victims (Tr. 75). Three or four months after he arrived in Utah the Cottonwood mine was opened. (The Cottonwood is a part of the now sealed Wilberg mine). In the Cottonwood he has gone on inspections in coal producing sections that were unrelated to the recovery operations y (Tr. 76).

In January 1986 Rabbitt had written Emery's mining management concerning conditions within the sealed area of the Wilberg mine (Tr. 79). A copy of the letter went to various federal and state officials as well as the UMWA office (Tr. 80; UMWA Ex. 2). The letter, directed to Emery mine manager John Boylen, was sent after a meeting with Emery's mine superintendent. The letter complained about the seals at #37 crosscut. Approximately three weeks later the seals were isolated and regulated (Tr. 81).

After the January 20th letter Emery began to restrict Rabbitt's access to the mine. He was stopped at the gate and manager Boylen had to be notified before he could enter. He would then have to go to Boylen or Neldon Sitterud's office (Tr. 79, 107, 108). In the sample room a sign stating "Authorized Persons Only" appeared. Rabbitt accepted Boylen's explanation of the situation and he had no problem with it (Tr. 107, 108).

On March 3, 1986 Rabbitt again wrote to Emery's mine manager at the Wilberg and Cottonwood mines. This letter probably caused the most concern to management. It addressed certain technical matters and its purpose was to verify a conversation so there would be no later misunderstanding (Tr. 85, 109; UMWA Ex. 3). The process and procedure of entering the mine had worked smoothly for a period of time but it became less smooth after March 3.

The totality of the letters in early March dealt with full notice and compliance with MSHA's regulations which had not been fully complied with in the past (Tr. 109).

---

<sup>4/</sup> These inspections are described in the transcript at page 146: a 103(i) is a special five day spot inspection required at the Wilberg mine; a 103(g) is a special request inspection by the representatives of the miners or a miner; a 103(a) is a regular quarterly MSHA inspection of the entire mine.

<sup>5/</sup> Related cases filed simultaneously with this decision involve Emery's Wilberg mine.